

REMARKS

The Office Action dated September 27, 2004, has been received, its contents carefully noted, and the applied citations thoroughly studied. Accordingly, the foregoing claims are tendered with the conviction that patentable contrast has been made manifest over the known prior art and certain typographical inexactitudes have been rectified to provide better form. All rejections tendered by the Examiner in the above-referenced Office Action are hereby respectfully traversed and reconsideration is respectfully requested.

It is believed that the foregoing revisions to the claims are within the metes and bounds of the recently articulated Supreme Court *Festo* case, in that all equivalents susceptible to capture have been retained in that one skilled in the art, at the time of this amendment, could not have reasonably be expected to have drafted a claim that would have literally encompassed any other equivalent.

Specification: Abstract

The Examiner has objected to the abstract of the disclosure because it contains more than 150 words. The abstract has been modified to comport with the Examiner's requirement.

Claim Objections

The Examiner has objected to claim 2, stating that "base on" should be replaced with "based on". Correction has been made.

Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 1 through 7, 12 through 19, and 37 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point

out and distinctly claim the subject matter that applicant regards as the invention.

The Examiner noted several instances of perceived inconsistencies regarding the characterization of the module and bid elements of the claims. The claims have been amended with particular attention to the Examiner's comments. Claim 37 has been cancelled.

Rejections under 35 U.S.C. § 101

The Examiner has rejected claims 1 through 7, 12 through 19, and 37 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The independent claims have been amended to recite the presence and function of technology in the instant invention. The specification is clear regarding the use of technology in the present invention, and provides ample support for the amendments.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1, 12 and 13 under 35 U.S.C. § 102(a) as being anticipated by Michael J. Cook, AACE International Transactions, Morgantown: 1990, p. ES14 (7 pages) (hereinafter "Cook").

At the outset, the Examiner has mischaracterized Cook, which does not disclose the elements of the present invention as claimed. Cook is a publication that recites the difficulties encountered in traditional bidding processes in the construction industry. Reference to the Background of the Invention of applicant's specification reveals that applicant concurs with Cook as to the particular difficulties in the present system. Applicant's invention solves the problems enumerated by Cook, and can be utilized by any industry, not merely the construction industry.

Contrary to the Examiner's assertion, Cook does not disclose modules. No reference cited to date discloses the use of modules. Merely because a contractor subcontracts does not indicate the presence of "modules" as defined in the present invention. In one unsatisfactory alternative, Cook notes that bids are received from subcontractors in which the subcontractor itself defines the scope of the bids (i.e., what work it will and will not do), which may or may not comport with the general contractor's idea of the scope. The very presence of this problem indicates that Cook is not describing "modules" as defined in the present invention. Each module, by definition, is a discrete portion with a defined scope. No such item exists in the prior art, and this is why the problems exist. None of the problems described by Cook occur in the present invention.

The Examiner's kind attention is also directed to the fact that bids in Cook are based on price alone, which is not true of the present invention. In the present invention, a "bid" represents not only price (a monetary component), but also non-monetary components, including those representing attributes of the seller, combined with the monetary components to provide an indication of value. For example, the present invention requires the use of pre-qualified sellers, the "value" of which is represented in each "bid" of the present invention. Two different sellers offering to sell goods or services at the same price, therefore, would not necessarily have the same "bid" in the present invention. A less-experienced seller, for example, may provide less value. A more reliable seller may provide more value. An unreliable seller may not be pre-qualified, and, therefore, would not be allowed even the opportunity to make an offer. The quality of the seller, *inter alia*, is numerically represented in the bid of the present invention.

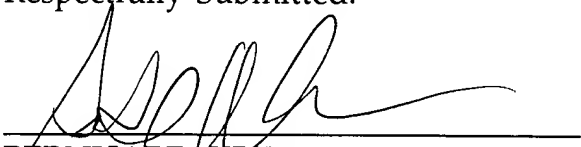
The claims have been amended to make explicit the content of a bid in the present invention, which is not limited to a monetary component. This amendment is amply supported by the specification as filed. Nothing whatsoever in the prior art includes a total representation of the value that the buyer receives.

The Examiner is respectfully requested to note that the Office Action to which this amendment responds was mailed on September 27, 2004, thereby requiring a response on March 27, 2005. March 27, 2005, was a Sunday. Therefore, this amendment is timely filed on Monday, March 28, 2005.

In view of the foregoing, it is respectfully requested that the Examiner pass this case to issue. If, upon further consideration, the Examiner believes further issues remain outstanding or new ones have been generated, undersigned respectfully requests that the Examiner call undersigned to expeditiously resolve same. Undersigned has enclosed a Request for Personal Interview to assist in expediting issuance of the present case.

Dated: March 28, 2004

Respectfully Submitted:



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